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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 AMERICAN FIREGLASS, a California  
12 corporation,  
13  
14 Plaintiff,  
15 v.  
16 MODERUSTIC INC., a California  
17 corporation,  
18 Defendant.

Case No.: 15-CV-2866 JLS (BGS)

**ORDER OVERRULING  
DEFENDANT'S OBJECTIONS TO  
MAGISTRATE JUDGE'S  
DISCOVERY ORDER**

(ECF No. 128)

18 Presently before the Court is Defendant Moderustic, Inc.'s Objections to Magistrate  
19 Judge Bernard Skomal's January 23, 2018 Order, which granted in part and denied in part  
20 Defendant's Motion to Compel Discovery. ("Objections," ECF No. 124). Also before the  
21 court is Plaintiff American Fireglass' Response in Opposition to, ("Opp'n," ECF No. 126),  
22 and Defendant's Reply in Support of, ("Reply," ECF No. 133), the Objections. Having  
23 considered the parties' arguments and the law, the Court **OVERRULES** Defendant's  
24 Objections.

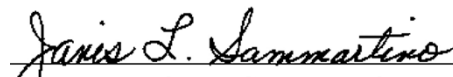
25 District courts "must consider timely objections" to a magistrate's ruling and "set  
26 aside any part of the order that is clearly erroneous or contrary to law." Fed. R. Civ. P.  
27 72(a); *see also Grimes v. City and Cnty. of S.F.*, 951 F.2d 236, 241 (9th Cir. 1991). A  
28 ruling is clearly erroneous only if the reviewing court, on the entire record, reaches "a

1 definite and firm conviction that a mistake has been committed.” *United States v. U.S.*  
2 *Gypsum Co.*, 333 U.S. 364, 395 (1948); *Carl Zeiss Vision Int’l GmbH v. Signet Armorlite,*  
3 *Inc.*, No. 07-CV-894 DMS (DHB), 2010 U.S. Dist. LEXIS 12392 at \*4 (S.D. Cal. Feb. 12,  
4 2010). In contrast, the “contrary to law” standard permits independent review of purely  
5 legal determinations by a magistrate judge. *See, e.g., Haines v. Liggetts Grp., Inc.*, 975  
6 F.2d 81, 91 (3d Cir. 1992); *Med. Imaging Ctrs. of Am., Inc. v. Lichtenstein*, 917 F. Supp.  
7 717, 719 (S.D. Cal. 1996).

8 Defendant raises four objections, none of which establish Magistrate Judge  
9 Skomal’s rulings were either clearly erroneous or contrary to law. First, Judge Skomal’s  
10 decision to order Plaintiff to supplement its discovery responses, but not reopen discovery  
11 related to methods used by Plaintiff to produce the accused products, is supported by the  
12 record and not clearly erroneous. Second, Defendant’s Motion to Compel Discovery, ECF  
13 No. 86, supports Judge Skomal’s finding that Defendant failed to comply with Judge  
14 Skomal’s chambers rules and his decision to deny a premise inspection on that basis is not  
15 clearly erroneous or contrary to law. Third, Defendant’s Objections concerning discovery  
16 related to damages is premature. Judge Skomal has yet to rule on the scope of discovery  
17 related to damages, instead finding it more efficient to defer his ruling on the issue until  
18 after this Court’s ruling on the parties’ cross Motions for Summary Judgment, *see* ECF No.  
19 110; the Court finds no reason to rule on Objections to a ruling Judge Skomal has yet to  
20 make. Fourth, and finally, Judge Skomal addressed all of the issues raised in Defendant’s  
21 Motion to Compel, and this Court will not address issues not presented first to Judge  
22 Skomal. Accordingly, the Court overrules Defendant’s Objections to the Magistrate  
23 Judge’s Order.

24 **IT IS SO ORDERED.**

25 Dated: February 11, 2019

26   
27 Hon. Janis L. Sammartino  
28 United States District Judge